

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TYRONE THIGPEN,

Plaintiff,

v.

JUDGE WILLIAM C. FOUST, et al.

Defendants.

ORDER

Case No. 15-cv-35-jdp

Plaintiff Tyrone Thigpen, an inmate in the custody of the Dane County Jail, has submitted a proposed civil action under 42 U.S.C. § 1983. Plaintiff has filed an inmate trust fund account statement in support of the motion for leave to proceed without prepaying the fee. (Dkt. #2). After considering the motion and supporting documentation, the court concludes that plaintiff qualifies for indigent status.

Even when a prisoner litigant qualifies for indigent status, the prisoner litigant must pay a portion of the fee returned by the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, a prisoner litigant must prepay 20% of the greater of the average monthly balance or the average monthly deposits made to the prisoner's account in the six-month period immediately preceding the filing of the complaint.

From the inmate account statement plaintiff has submitted, it is apparent that plaintiff had only been in custody at the Dane County Jail for about a month before the filing of the complaint. Using the information in the inmate account statement, I assess plaintiff's initial partial payment of the filing fee as \$7.00. For this case to proceed, plaintiff must submit this amount on or before February 10, 2015. Plaintiff should show a copy of this

order to jail officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that,

1. Plaintiff Tyrone Thigpen is assessed \$7.00 as an initial partial payment of the \$350.00 fee for filing this case. Plaintiff is to submit a check or money order made payable to the clerk of court in the amount of \$7.00 or advise the court in writing why plaintiff is not able to submit the assessed amount on or before February 10, 2015.

2. If, by February 10, 2015, plaintiff fails to make the initial partial payment or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff's filing this case at a later date.

3. No further action will be taken in this case until the clerk's office receives plaintiff's initial partial filing fee as directed above and the court has screened the complaint as required by the PLRA, 28 U.S.C. § 1915A. Once the screening process is complete, a separate order will issue.

Entered this 20th day of January, 2015.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge